

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of TATANIA RANAI DAVIS and  
JAMES MALIK TAYLOR, JR., Minors.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

MORTICIA LYNN MARIE DAVIS,

Respondent-Appellant,

and

JAMES LEE TAYLOR,

Respondent.

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UNPUBLISHED

August 28, 2007

No. 275800

Wayne Circuit Court

Family Division

LC No. 01-402564-NA

Before: Owens, P.J., and White and Murray, JJ.

PER CURIAM.

Respondent-appellant, Morticia Lynn Marie Davis, appeals of right from the trial court's orders terminating her parental rights pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

Respondent's challenge to the trial court's exercise of jurisdiction over the children, following the January 7, 2002, trial, is not properly before this Court. "Matters affecting the court's exercise of jurisdiction may be challenged only on direct appeal of the jurisdictional decision, not by collateral attack in a subsequent appeal of an order terminating parental rights." *In re Gazella*, 264 Mich App 668, 679-680; 692 NW2d 708 (2005); see also *In re Powers*, 208 Mich App 582, 587-588; 528 NW2d 799 (1995). We note, however, that respondent's claim that the referee did not complete the trial is not supported by the record. Although a transcript of the January 7, 2002, trial (prepared in 2007) only contains testimony of two witnesses, it is clear from an earlier transcript (prepared in 2004), which is also part of the record in this case, that the 2007 transcript is incomplete. The record reflects that the referee heard additional witnesses and closing arguments by the attorneys before orally announcing her jurisdictional decision and

preparing a written report containing a finding that the children were within the court's jurisdiction.

Next, respondent has not established any basis for disturbing the trial court's decision to terminate her parental rights. We review for clear error the trial court's finding that a statutory ground for termination under MCL 712A.19b(3) was proven by clear and convincing evidence. MCR 3.977(J); *In re JK*, 468 Mich 202, 209; 661 NW2d 216 (2003). Evidentiary rulings are reviewed for an abuse of discretion. *In re Hill*, 221 Mich App 683, 696; 562 NW2d 254 (1997); *In re Vasquez*, 199 Mich App 44, 50-51; 501 NW2d 231 (1993).

Respondent has not established any evidentiary basis for reversal. The fact that hearsay is introduced at a termination hearing is not a ground for reversal. Whether reversal is warranted requires consideration whether the evidence was considered by the trial court for an improper purpose. *In re CR*, 250 Mich App 185, 206-207; 646 NW2d 506 (2001); see also MCR 3.902(A) (harmless error standard in MCR 2.613(A) applies to child protection proceedings). Having considered respondent's arguments regarding the evidence introduced at the termination hearing, we conclude that respondent has failed to establish either an abuse of discretion in admitting the evidence or any improper use of the evidence that affected the trial court's decision to terminate her parental rights.

Respondent has also failed to show any deficiency in the services provided by petitioner that would preclude termination of her parental rights under MCL 712A.19b(3)(c)(i), (g), or (j). In general, when a child is removed from a parent, petitioner must make reasonable efforts to rectify the conditions that caused the removal by adopting a service plan. MCL 712A.18f; *In re Fried*, 266 Mich App 535, 542; 702 NW2d 192 (2005). Petitioner's efforts must be consistent with the directive of the Americans With Disabilities Act (ADA), 42 USC 12101 *et seq.*, that disabilities be reasonably accommodated. *In re Terry*, 240 Mich App 14, 26; 610 NW2d 563 (2000). A claim that reasonable services were not offered to a respondent ultimately relates to the issue of the sufficiency of the evidence to terminate parental rights. *In re Fried*, *supra* at 541.

In this case, the record supports the trial court's finding that reasonable efforts toward reunification were made during the approximately five years that the children were temporary court wards. The services included a psychological and educational assessment to determine respondent's special needs in the first instance. Additionally, while the record indicates that specialized parenting classes could not be located to meet respondent's special needs with respect to both the content of the classes and transportation concerns, respondent was provided with individualized services. In addition to counseling with a therapist, the trial court approved a program that included in home services by the Association for Children's Mental Health. Despite the conditions of respondent's court-ordered treatment plan, the trial court reasonably concluded that respondent continued to make poor choices affecting the safety and well-being of the children. Considering the record as a whole, the trial court did not clearly err in its assessment of the services provided to respondent. Therefore, we reject respondent's challenge to the trial court's termination decision on this ground.

Affirmed.

/s/ Donald S. Owens

/s/ Helene N. White

/s/ Christopher M. Murray